IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

Crl.MC.No. 1117 of 2004-D

CC.650/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PARAPPANANGADI

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PETITIONER: ACCUSED:

THARI ALAVIKUTTY, S/O. BEERAN KUTTY,
SOUTH VILLA, V.K. PADAY, A.R. NAGAR,
THIRURANGADY.

BY ADV. SRI.T.V.GEORGE
SMT.LINDA GEORGE

RESPONDENTS: COMPLAINANT:

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1. MANGADANCHERRY SUHARABEE,
W/O. THARI ALAVIKUTTY, C/O. T.A. SAID ALAVI,
THALEKKARA, AAZHUKADU, KOTTAPPURAM
ERANADU TALUK.

2. STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.O.V.MANIPRASAD
SRI.M.MANOJKUMAR (CHELAKKADAN)
PUBLIC PROSECUTOR MR. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 15-11-2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.1117 OF 2004

DATED THIS THE 15TH DAY OF NOVEMBER 2006

ORDER

The petitioner who is the sole accused in C.C.No. 650/2003 in the file of the Judicial First Class Magistrate Court, Parappanangadi with respect to the offence under Section 498-A of the Indian Penal Code has sought for getting the same quashed. It is the case of the petitioner/accused that the complaint has been preferred by the respondent at the instance and instigation of her father. According to him, the complaint is the result of coercion and undue influence exerted by her father on the complainant. According to the petitioner, the allegations in the complaint are false and frivolous and liable to be quashed.

2. The petition was opposed by counsel for the respondent/ de facto complainant.

3. I find that the petitioner has produced Annexure-A1 copy of the complaint. Annexure-A2, the letter allegedly sent by her to the petitioner and Annexure-A3, the letter said to have been

sent by her to her father and Annexure-A4, Section 161 statement of the de facto complainant and Annexure-A5 is said to be the letter sent by the de facto complainant to the Dy.S.P.and Annexure-A6, the letter sent by the de facto complainant to the District Superintendent of Police.

4. On a perusal of Annexure-A1 complaint, it is seen that there is specific allegation of cruelty, manhandling and constant infliction of torture apart from the perpetration of unnatural offence by the petitioner with others. The incidents are described in detail. It is also alleged that the petitioner remarried after dissolving the marriage with the de facto complainant. The de facto complainant has produced documentary evidence in support of her allegations. I find that the averments and the recitals in Annexure-A1 complaint contained the specific allegations and details of the same. The documents produced, i.e. the letters allegedly written by the de facto complainant to the petitioner, to the father of the complainant and to the police officials and the copy of the statement allegedly recorded by the police are yet to be proved. Relying on the recitals of the letters etc. allegedly sent by the de

facto complainant in the absence of proof , the proceedings initiated under Section 498-A cannot be quashed. I find that the allegation that the proceedings are initiated by the complainant at the instigation of her father by exerting coercion and undue influence can only be established at the time of trial. In the circumstances, I find that no grounds have been established to quash the proceedings. The Crl.M.C.is dismissed.

K.R.UDAYABHANU, JUDGE

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